

Appl. No. 10/751,362  
Docket No. AA611  
Amdt. dated November 30, 2009  
Reply to Office Action mailed on September 3, 2009  
Customer No. 27752

## REMARKS

### Claim Status

Before entry of this Amendment, claims 1, 9, 11, 22-30, and 32 were pending in the present application, with claims 25-29 being withdrawn from consideration. New claims 33 and 34 are added herein. Thus, following entry of this Amendment, claims 1, 9, 11, 22-30, and 32-34 will be pending. No additional claims fee is believed to be due.

Independent claims 1 and 30 are amended herein to recite that the absorbent articles further comprise a reference mark. Claims 1 and 30 are also amended to remove limitations reciting that the printed graphics are printed directly on each sheet of the n absorbent articles in a randomly selected order and the n absorbent articles are stacked in the package in the randomly selected order. The limitations removed from claims 1 and 30 are now recited in new dependent claims 33 and 34, respectively. Support for these changes is found on page 4, line 29 and page 7, line 24 of the specification, which incorporates U.S. Patent No. 5,766,389 by reference. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

### Rejections Under 35 U.S.C. § 103 over Pargass in view of Yeo and Stavrulov

In the Office Action, claims 1, 9, 11, 22-24, and 32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,558,499 issued to Pargass et al. (hereinafter "Pargass") in view of U.S. Patent No. 5,503,076 issued to Yeo et al. (hereinafter "Yeo") and further in view of PCT Patent Publication No. WO00/13632 in the name of Stavrulov (hereinafter "Stavrulov"). It is respectfully submitted that the Office Action has not established a prima facie case of obviousness, because the cited combination of Pargass, Yeo, and Stavrulov does not teach or suggest all the claim limitations recited in amended independent claims 1 and 30. (*See* MPEP § 2143). Further, it would not be obvious to modify Pargass to include such claim limitations.

As discussed above, independent claims 1 and 30 are amended herein to recite a reference mark. In particular, claim 1 is amended to recite that each of the absorbent articles

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comprise a reference mark and a printed graphic printed directly on the backsheet. (emphasis added). And claim 30 is amended to recite that each of the absorbent articles comprise a reference mark and a printed graphic printed directly on the sheet of material. (emphasis added). Pargass does not teach or suggest absorbent articles having reference a reference mark, as recited in claims 1 and 30. Instead, Pargass discloses absorbent articles wherein the reference markers used to cut the graphics are not included on the final absorbent article. (emphasis added). (See inter alia, Abstract; and Col. 6, ll. 39-41).

In addition, it would not have been obvious to modify Pargass to include reference marks. If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose or change the principle of operation of the prior art invention, then there is no suggestion or motivation to make the proposed modification. (See MPEP 2143.01.V.-VI.). Here, Pargass teaches away from absorbent articles including reference marks. For example, Pargass states that “the inclusion of the reference markers on the final assembled product can detract from the aesthetics of the product and are therefore not desirable.” (See Col. 1, ll. 51-54). In another example, Pargass states “the reference markers in some instances are aesthetically displeasing, so leaving them on the final assembled absorbent article can detract from the presentation of the article.” (See Col. 3, ll. 44-47). In yet another example, Pargass disparages the use of reference marks, stating:

According to these prior methods, the assembled absorbent article must contain the sensed reference marker(s) to properly enable the complex feed-back control systems of the registration process. The inclusion of the reference marker(s) in the assembled product can detract from the aesthetic qualities of the final absorbent article, and the feed-back control can overly complicate the production line.

(See Col. 4, ll. 3-9). The manufacturing methods of Pargass also recite the removal of reference marks. As such, modifying Pargass to include the claimed reference marks would require implementation of such features as “complex feed-back control systems or the

presence of reference marks on the final absorbent article” that Pargass intended to eliminate. (See Col. 6, ll. 39-41).

Claims 1 and 30 also recite printing a graphic directly on the backsheets and sheets of the absorbent articles. In contrast, Pargass discloses a diaper having a graphic printed on a patch, which may be joined with a backsheet. More particularly, Col. 8, ll. 47-48 of Pargass states: “Fig. 4a shows a method for making an appliqué layer 26 by placing a graphic 21 on a moving non-woven web, which forms the backsheet to the absorbent article.” (emphasis added). For clarity, Figures 4A and 5A of Pargass are reproduced below with reference numbers of particular interest being circled.

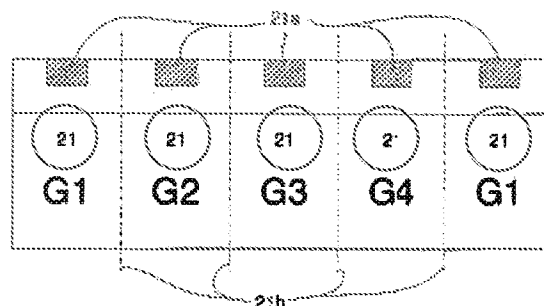


FIG. 5A

With regard to Figure 5A, Pargass discloses that the graphics 21 are provided from a first MD continuously moving layer or master roll 32, which has a plurality of graphics 21 and a corresponding plurality of reference markers 21a printed thereon. (emphasis added). (See Col. 8, ll. 51-55). With further regard to Figure 4A, Pargass describes in more detail a method by which the graphics are applied to a nonwoven outer layer 22.

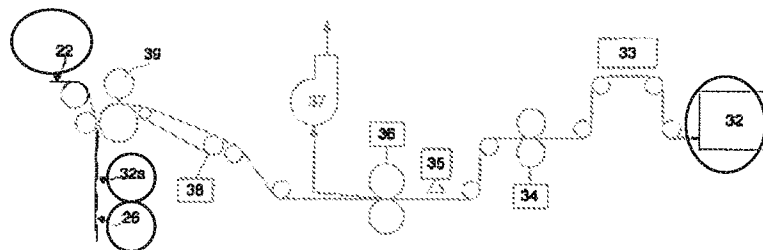


FIG. 4A

In particular, Pargass discloses that the continuously moving master roll 32 is conveyed by conveyor 34 and a photo-eye or optical sensor 35 detects the reference markers 21a. Once the reference markers 21a have been sensed or detected, they can be removed by any suitable means, and once the reference markers 21a are removed, the master roll 32 (without any reference markers whatsoever) is conveyed forward by servodrive 38 to cutting means 39. At cutting means 39, master roll 32 is cut at predetermined locations 21b to form individual segments 32a, which are then applied to non-woven outer layer 22 to form applique layer 26. (emphasis added). (See Col. 9, ll. 26-35). In sum, the method of making absorbent articles in Pargass prints the graphics 21 on a continuously moving layer or master roll 32 and cut into individual segments 32a, which are applied to an outer layer 22.

As such, modifying Pargass to print graphics directly on backsheets or sheets as recited in claims 1 and 30 would change the principle of operation of the method of making absorbent articles as disclosed in Pargass. Therefore, there is no suggestion or motivation to make the proposed modification to Pargass. (See MPEP 2143.01.V.-VI.).

Thus, it is respectfully submitted that, for at least the reasons discussed above, claims 1 and 30 are patentable under 35 U.S.C. § 103(a) over the cited references. Claims 9, 11, and 22 and claims 23, 24, and 32 depend from and include all the limitations of claims 1 and 30, respectively. As such, for at least the same reasons discussed above with reference to claims 1 and 30, claims 9, 11, 22-24, and 32 are also patentable under 35 U.S.C. § 103(a) over the cited references.

Therefore, it is believed that claims 1, 9, 11, 22-24, 30, and 32 are in form for allowance and such indication is respectfully requested.

#### New Claims 33 and 34

As discussed above, it is believed claims 1 and 30 are patentable under 35 U.S.C. § 103(a) over the cited references. New claims 33 and 34 depend from and include all the limitations of independent claims 1 and 30, respectively. As such, for at least the same

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reasons discussed above with reference to claims 1 and 30, claims 33 and 34 are also believed patentable under 35 U.S.C. § 103(a) over the cited references.

In addition, new dependent claims 33 and 34 recite limitations removed from independent claims 1 and 30, respectively. In particular, claims 33 and 34 recite the printed graphics are printed directly on each sheet of the n absorbent articles in a randomly selected order and the n absorbent articles are stacked in the package in the randomly selected order.

The Office Action made various assertions that the aforementioned claim limitations do not patentably distinguish the claimed invention over the prior art. (See Office Action, Pages 5-6).

In particular, the Office Action asserted that the order in which articles are placed in a package is not a structural limitation, but rather, a matter of intended use. (See Office Action, Para. 9). Claims 1 and 30 recite an absorbent product comprising, among other elements, a package and at least n absorbent articles contained in the package. Claims 33 and 34 recite structural limitations in that the n absorbent articles are stacked in the package in the randomly selected order. In contrast to the Office Action's assertion, an absorbent product having absorbent articles stacked in a package in a randomly selected order is not merely a matter of intended use.

The Office Action also asserts that the decision of how to package diapers in randomly selected orders or non-randomly selected orders is the result of a mental process. (See Office Action, Para. 10). In contrast to the Office Actions, claims 33 and 34 do not recite a mental process as to how to decide to package absorbent articles. Instead, claims 33 and 34 recite the structural limitations that define the n absorbent articles as being stacked in the package in the randomly selected order.

The Office Action also asserts that "if products were patented based on simply changing the order in which they are placed in a package, multiple patents could issue indefinitely for the same product merely by placing them in a package in a different order." (See Office Action, Para. 11). It is respectfully submitted that the Office Action's assertion

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in Paragraph 11 is based upon subjective reasoning as to why a patent should or should not be granted, as opposed to objective rationale based on the law.

The Office Action also asserts that the articles of Pargass are capable of being placed in a randomly selected order. (See Office Action, Para. 13). It is respectfully submitted that an assertion that the prior art can be modified, without more, does not render does not render the pending claims obvious. (See MPEP 2143.01).

Next, the Office Action asserts that in view of the teachings of Stavrulov, it would have been obvious to modify Pargass to include graphics printed in a randomly selected order. (See Office Action, Page 8). However, in contrast to claims 33 and 34, Pargass teaches articles with distinct repeating graphics in packages. (emphasis added). (See Col. 5, ll. 2-6; and Col. 15, ll. 58-63).


For at least the reasons above, claims 33 and 34 are believed allowable and such indication is respectfully requested.

Conclusion

In view of the foregoing, reconsideration of this application and allowance of the pending claims are respectfully requested.

Respectfully submitted,

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